

Notice of Allowability

Application No.

09/458,813

Examiner

Stacy B. Chen

Applicant(s)

MURPHY ET AL.

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1648

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to August 18, 2006.
2. ☒ The allowed claim(s) is/are 53-85.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
SC 9/22/06
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

Examiner's Comment

Applicant's after-final amendment filed August 18, 2005 is acknowledged and entered.

Claims 53-85 are allowable.

The rejection of claims 67, 68 and 83-85 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement, is withdrawn in view of Applicant's persuasive arguments.

The provisional rejection of claims 53-85 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 144-215 of copending Application No. 09/083,793, is withdrawn in view of the terminal disclaimer filed August 18, 2006.

The provisional rejection of claims 53-85 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-30 and 46-74 of copending Application No. 09/459,062, is withdrawn in view of the terminal disclaimer filed August 18, 2006.

The provisional rejection of claims 53-85 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 84-163 of copending Application No. 09/586,479, is withdrawn in view of the terminal disclaimer filed August 18, 2006.

The provisional rejection of claims 53-85 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 180-222 of copending Application No. 09/733,692, is withdrawn in view of the terminal disclaimer filed August 18, 2006.

Conclusion

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

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may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stacy B. Chen whose telephone number is 571-272-0896. The examiner can normally be reached on M-F (7:00-4:30). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bruce Campell can be reached on 571-272-0974. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Stacy B. Chen 9/22/06
STACY B. CHEN
PRIMARY EXAMINER